January 3, 1983

REGISTERED MAIL

Atari Incorporated
1265 Borregas Avenue
P.O. Box 427
Sunnyvale, California 94086

Attn: Mr. Charles S. Paul

Re: Donkey Kong

Gentlemen:

We are attorneys for Universal City Studios, Inc., owner of the trademark and trade name rights in the name "King Kong," the gorilla character "King Kong" and certain pictorial and graphic depictions of the character "King Kong" made famous by several motion pictures.

As a result of pretrial discovery taken in a lawsuit which our client commenced against Nintendo of America, Inc. and Nintendo Co. Ltd. in the federal court in the Southern District of New York in June of last year, it has come to our client's attention that you are distributing and selling certain products bearing the name "Donkey Kong," apparently pursuant to a licensing arrangement with these defendants.

The claims made by our client Universal in this lawsuit are for common law trademark infringement, violations of § 43(a) of Lanham Act, misappropriation of Universal's rights in the "King Kong" name, character and story, and unfair competition.

We write you at this time to put you on notice that our client regards your use of the trademark "Donkey Kong" in conjunction with the products you sell as an infringement of its rights in "King Kong" for the same reason it regards

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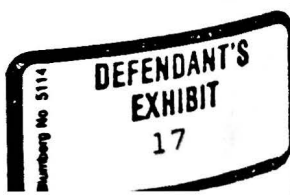

Nintendo's use of "Donkey Kong" as an infringement of its rights. You should understand as well that our client intends to press its legal rights against you and other Nintendo licensees. Accordingly, we would suggest to you two alternatives:

1. You immediately cease and desist from using "Donkey Kong" as a trademark in conjunction with the products on which you are now using that name; or

2. You secure a license from Universal authorizing you to use the name "King Kong" and variations of that name, including "Donkey Kong." Naturally, Universal would first require that you submit to it for its inspection and evaluation the products you are selling under the "Donkey Kong" name before any such license would issue.

Very truly yours,

DOUGLAS C. FAIRHURST

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